

REMARKS

Claims 1-39 and 43-45 are currently pending in the present application. Claims 1-3, 5, 8-16, 19, 31, and 36 are amended herein. Claims 43-45 are added herein. Claims 40-42 are cancelled herein. No new matter is added.

In the present Office Action, the Examiner has (a) determined that Claims 1-42 as originally filed are subject to a restriction requirement; and (b) required restriction to one of the following inventions -- Group I: claims 1-18 and 36-42, drawn to a method of operating an electrolyzer, classified in class 205, subclass 628, and Group II: claims 19-35, drawn to an electrolyzer system, classified in class 205, subclass 265.

Applicant hereby provisionally elects to prosecute the claims of Group II (claims 19-35) in the above-identified case, but traverses the Restriction Requirement with respect to the claims of Group I (claims 1-18 and 36-42).

TRAVERSE TO RESTRICTION REQUIREMENT

Applicant respectfully traverses the Restriction Requirement. As set forth in the MPEP § 803, restriction may properly be required between patentably distinct inventions if (1) the inventions are independent or distinct as claimed; and (2) there is a serious burden on the Examiner if restriction is not required.

With regard to the claims of Groups I and II in the present case, the Examiner has stated that the inventions are related as process and apparatus for its practice and are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP

§806.05(e)). However, Applicant respectfully submits that there will not be a serious burden on the Examiner if the restriction between the claims directed to a method of operating an electrolyzer and claims directed to an electrolyzer system is not required because regardless of which set of claims are prosecuted, the field of search for each invention are so closely related to one another that maintaining them in the same application would not cause undue hardship for the Examiner. In this case it is submitted that pertinent art for both groups may exist in both the classes/subclasses recited by the Examiner. Thus, Applicant contends that there will not be a serious burden on the Examiner if restriction is not required and withdrawal of the Restriction Requirement is requested.

In view of the above, it is respectfully submitted that the conditions set forth in MPEP § 803 do not require that the inventions of Groups I and II be restricted in this case because, in particular, there will not be a serious burden on the Examiner if restriction is not required. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the Restriction Requirement as to the claims of Groups I and II and pass this application for action on the merits of the pending claims.

Notwithstanding the above traverse, Applicant has amended claims 1 and 36 herein. It is believed that with the Amendment to these claims, claims 1 and 36 and the claims depending therefrom now properly belong in Group II along with claims 19-35. Particularly, it is pointed out that claims 1, 19 and 36 now each call for the interior cavity of the pressure vessel to be pressurized with pressurized water from a pressurized water source. As such, the Examiner's rationale for restricting these claims is now believed to be rendered moot. Thus, while Applicant has provisionally elected to

prosecute Group II (claims 19-35), the Examiner is respectfully requested to also examine claims 1 and 36 and the claims that depend therefrom.

Moreover, it is noted that the elements contained in step (f) of claim 36 is similar to the subject matter called for in claims 4 and 22 and also in new claims 43 and 44. As such, it is respectfully submitted that when examining claim 19 and the claims that depend therefrom, examination of claim 36 will not present a serious burden to the Examiner.

Additionally, claim 45 is added herein. It is respectfully submitted that claim 45 properly belongs in Group II. As such, examination of claim 45 is requested.

While Applicant has provisionally elected claims 19-35 with traverse for initial examination, Applicant reserves the right to file divisional/continuation applications directed to the subject matter of claims 1-18 and 36-42 in future prosecution.

PETITION DIRECTOR

If the restriction requirement is maintained and made final, the Applicant preserves the right to petition the Director to review the requirement now or may defer the petition until after final action or allowance of claims to the invention elected (37 C.F.R. § 1.144).

CONCLUSION

In view of the above, Applicant respectfully requests reconsideration or modification of the Restriction Requirement. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is

in condition for allowance. Thus, prompt and favorable consideration of this Amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

By: 
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